IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE EIGHTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION No: 5302 of 2005

Between:

M/s. Sarda Agro Oils Limited, Plot No. 655, Satamrai, Gaganpahad, Ranga Reddy District, Rep. by its Managing Director, Mr. Jagdish Sarda.

..... PETITIONER

AND

1 The Commercial Tax Officer, Saroornagar Circle, Hyderabad.
2 The Deputy Commissioner (CT), Saroornagar Division, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Certiorari or any other appropriate writ or order or direction quashing the order of the 2nd Respondent in RR No. 115/SAR/2004-05, dated 4-3-2005 for the assessment year 2001-02 (CST) as passed in gross violation of principles of natural justice and contrary to G.O. 456 dated 5-7-2004 issued by Government of Andhra Pradesh and consequently direct the 2nd Respondent to grant sufficient opportunity to submit objections to the revision proposed by him and after granting opportunity of personal hearing and pass such other order or orders.

Counsel for the Petitioner: MR.P.SRINIVASA REDDY

Counsel for the Respondents: GP FOR COMMERCIAL TAX

The Court made the following:

ORAL ORDER:- (PER GB,J.)

The Writ Petition is filed assailing the order, dated 04.03.2005, passed by the 2nd respondent – The Deputy Commissioner (CT), Hyderabad.

2. The only principal contention raised by the learned senior counsel for the petitioner is that the impugned order is in gross violation of principles of natural justice as no sufficient opportunity was given to the petitioner to represent his case, and therefore, the order requires reconsideration. He also submits that the assessment was completed in the year 2003 itself, but however, the revisional authority by virtue of its revisional powers sought to revise the matter in the year 2004, and thereafter, a notice was issued to the petitioner for which he filed representation seeking certain time to file the objections. But, ultimately, another notice, dated 14.02.2005, was furnished to the petitioner containing 66 pages referring to as many as 87 dealers through out the states of Karnataka, Tamilnadu and Maharastra, and without giving sufficient time, final order was passed on 04.03.2005. Hence, he submits that the order is liable to be set aside.

3. Learned Government Pleader submits that sufficient opportunity was given to the petitioner and he produced bogus bills so as to raise undue advantage, and therefore, the petitioner does not deserve any sympathy in the hands of this Court.

4. We have considered the respective contentions raised by both the counsel.

5. We find that the order, dated 04.03.2005, was passed without giving sufficient opportunity. In the *suo motu* revision 87 dealers were referred and 67 pages was furnished on 14.02.2005 and it requires certain time to refer to those dealers who made appropriate representations before the authorities.

6. Under those circumstances, we find that the impugned order is in gross violation of principles of nature justice and accordingly, it is set aside. However, the said

order, dated 04.03.2005 shall be treated as show-cause notice, and the petitioner shall submit his explanation or representation to the show-cause notice within a period of six weeks from the date of receipt of a copy of this order. However, the authorities are directed to pass appropriate orders on the basis of the representation filed by the petitioner.

7. With the above direction, the Writ Petition is disposed of. No costs.

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G. BIKSHAPATHY, J

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P.S. NARAYANA, J

Date: 08.04.2005

ES

To

1 The Commercial Tax Officer, Saroornagar Circle, Hyderabad.
2 The Deputy Commissioner (CT), Saroornagar Division, Hyderabad.

3 2 CCs to the GP for Commercial Taxes, High Court of A.P., Hyderabad (OUT)

4 2 CD copies

5 1 CC to MR.SRINIVASA REDDY